MONTANA LEGISLATIVE HISTORY

Chapter 452 1977

Bill H _____ S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	2-14	___C	Hearing Date(s)	3-22	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	2-15	___C	DATE OUT	3-22	

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

JUDICIARY COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 685	to amend, relating to tenants security deposits to allow deductions for cleaning expenses, etc.	2-7	Fagg	Monday 14th	table do pass amended	2-15 2-24
HB 713	Montana marketable title act of 1977	2-7	Ramirez	Monday 14th	do pass as amended	2-15
HB 718	revising definitions & duties under the citizen partici-pation law	2-7	Meloy	Monday 14th	do pass	2-15
HB 719	revise, limit, & standardize travel expense paid from public funds, not including the legislative	2-7	Meloy	Tuesday 15	do pass as amended	2-15
HB 720	revise, limit, etc. travel expense reimbursements paid from public funds by local gvt entities and to change for actual or necessary etc	2-7	Meloy	Tuesday 15	do pass	2-15
SB 119	enable peace officers to retain all privileges & immunities from liability & all pension, insurance when	2-7	Hazelbaker	March 9	concurred in	3-10

INTRODUCED BY House BILL NO. 718

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING DEFINITIONS AND DUTIES UNDER THE CITIZEN PARTICIPATION LAW; AMENDING SECTIONS 82-4227 AND 82-4228, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-4227, R.C.M. 1947, is amended to read as follows:

"82-4227. Definitions. As used in this act:

(1) "Agency" means any board, bureau, commission, department, authority, or officer of the state or local government authorized by law to make rules except:

(a) the legislature and any branch, committee, or officer thereof;

(b) the judicial branches and any committee or officer thereof;

(c) the governor, except that an agency is not exempt because the governor has been designated as a member thereof; or

(d) the state military establishment and agencies concerned with civil defense and recovery from hostile attack.

(2) "Rule" means any agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:

(a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public;

(b) declaratory rulings as to the applicability of any statutory provision or of any rule; however, the declaratory rulings of any agency which is not subject to the Montana Administrative Procedure Act shall be published and be subject to judicial review as provided under 82-4213(2) and 82-4218;

(c) intra-agency memoranda."

Section 2. Section 82-4228, R.C.M. 1947, is amended to read as follows:

"82-4228. Agency requirements. (1) Each agency shall develop procedures for permitting and encouraging the public to participate in agency decisions that are of significant interest to the public. The procedures shall assure adequate notice and assist public participation before a final decision is made on the adoption of a rule or policy, awarding a contract, granting or denying a permit, license or change of rate that is of significant interest to the

public.

(2) An agency shall be deemed to have complied with the notice provisions of this act if:

(a) an environmental impact statement is prepared and distributed as required by the Montana environmental policy act, title 69, chapter 65;

(b) a proceeding is held as required by the Montana administrative procedure act, title 82, chapter 42;

(c) a public hearing, after appropriate notice is given, is held pursuant to any other provision of state law or a local ordinance or resolution; or

(d) a newspaper of general circulation within the area to be affected by a decision of significant interest to the public has carried a news story or advertisement concerning the decision sufficiently prior to a final decision ~~on a~~ to permit public comment on the matter.

(3) Procedures for assisting public participation shall include a method of affording interested persons reasonable opportunity to submit data, views or arguments, orally or in written form, prior to making a final decision that is of significant interest to the public.

(4) The provisions of this act do not apply to:

(a) an agency decision that must be made to deal with an emergency situation affecting the public health, welfare or safety;

(b) an agency decision that must be made to maintain or protect the interests of the agency, including but not limited to the filing of a lawsuit in a court of law or becoming a party to an administrative proceeding; or

(c) a decision involving no more than a ministerial act.

(5) ~~Each~~ The governor shall insure that each agency ~~shall adopt guidelines~~ adopts coordinated rules for its programs, which guidelines shall provide policies and procedures to facilitate public participation in those programs, consistent with subsection (1) of this section. These guidelines shall be adopted as rules and published in a manner which may be provided to a member of the public upon request."

-End-

JUDICIARY COMMITTEE
February 14, 1977

The regular meeting of the House Judiciary Committee was held at 8:00 a.m. in room 436 of the Capitol Building, Helena, Montana on Monday, February 14th with Chairman Scully presiding. All members were present except Representative Teague.

SCHEDULED FOR HEARING WERE HOUSE BILLS 273, 343, 451, 685, 713, and 718.

HOUSE BILL #713:
REPRESENTATIVE RAMIREZ, DISTRICT #64:
This bill was recommended by the Montana Bar Association and would pertain mostly to large land transactions. It would simplify transactions in land by providing that anyone having the chain of record title to land which is unbroken for at least 30 years has a marketable record title to the land. When a title is examined they will go back through all of the title transactions by reviewing an abstract. It is necessary to go back clear to the beginning of the title and bring it up to date. What the act is designed to do is to limit the time. This kind has been enacted in a couple of states. What this does to eliminate this problem is to fix a length of time. If a title can be traced back 30 years it is considered marketable. This act permits the filing of a claim. They would have to record that interest each 30 years.

It does not affect:
1. easements
2. use restrictions
3. water rights
4. mineral interests
5. any interest claimed by the United S tates
6. timber
7. conservation easements.

It is this type of defect this is designed to eliminate. It would cut down the expense if an error is found. The title is cleared for a 30 year period.

A copy of the statement from the Montana Bar Association Title Standards Committee is attached. After a short question and answer period the hearing closed on House Bill #713.

THE HEARING OPENED ON HOUSE BILL #718:

REPRESENTATIVE MELOY, DISTRICT #29:
This bill is concerned with standardizing travel expenses paid from public funds by state governmental entities, except the legislative branch. He went on to explain in more detail the parts of the bill, such as removal, rating, salaries, expenses, suspension, etc. He mentioned that on page 4, line 7, concerning

$25 per day for performance of duties. However, as yet, these rules have not been adopted. He also mentioned that the board of regents and board of education do not come under the Administrative Procedure Act.

There were no other proponents and no opponents.

REPRESENTATIVE HAND:
What is declaratory ruling.

CHAIRMAN SCULLY:
A position paper on how the department will interpret a particular question. He stated that the citizen participation law was passed in 1975.

There were no other questions, and the hearing closed on HB 718.

THE HEARING OPENED ON HOUSE BILL #451:
REPRESENTATIVE LIEN, DISTRICT #49:
The bill is concerned with the fees for preparation of environmental impact statements by DNR on applications for permits under the Montana Water Use Act, to determine the maximum fee payable and to contract with applicants for payment of fees. The present law says that if they are not used they have to be returned.

PAT HOOKS, ATTORNEY FROM TOWNSENT, INTAKE WATER COMPANY:
The statement provides that when the application involves the use of over 10,000 acre feet and when an environmental impact statement has to be submitted. The fee schedules are not changed, the guts of the changes are on page 3 and 4. The department may contract with an applicant by agreement the estimated cost of any facility for purposes of computing the amount of the fee, and the development of information, etc. The cost of the contract will be deducted from the fee.

In sub-section (3) of section 8, this is a new section, is completely discretionary and the responsibility of the impact statement is on the department.

WARD SHANAHAN, DREYER BROTHERS, INC.:
I wish to amend the bill. He submitted a copy of the proposed amendments to the committee, (attached) to provide for both types of certificates in the water use act where reference is made to the Siting Act.

LAWRENCE SEARLE, DEPARTMENT OF NATURAL RESOURCES:
We are in support of this bill. We feel the department may have this authority already but feel it should be made by law.

PAT SMITH, NORTHERN PLAINS RESOURCES COUNCIL, OPPONENT:
We are opposed to letting an applicant help in the preparation of the impact statement. He discussed the intent of the environmental act in some detail.

JUDICIARY COMMITTEE
EXECUTIVE SESSION
February 15, 1977

The House Judiciary Committee held an executive session in room 436, Capitol Building, Helena, Montana at 8:45 p.m. Tuesday, February 15. Chairman Scully presided. All members were present with the exception of Representative Colburn.

Chairman Scully appointed a sub-committee to work on House Bill 462. The following representatives were appointed: Representatives Dussault, Ramirez, Holmes, Roth, Courtney, Seifert and Eudaily.

Representative Ramirez reported on HOUSE BILL #316.
He presented proposed amendments to the committee for their consideration. REPRESENTATIVE RAMIREZ MOVED the adoption of the committee report. The motion carried with all members voting aye. REPRESENTATIVE KEYSER moved do pass as amended. The motion carried with the following representatives voting "no". Representatives Baeth, Courtney, Dussault, Lory and Holmes.

Representative Ramirez moved the adoption of the proposed amendments to HOUSE BILL 672:
The suggested amendments concerned the title, pages 4 and 5.
The motion to amend carried with Representatives Courtney and Seifert voting "no". REPRESENTATIVE RAMIREZ moved "do pass as amended. Motion carried with all members present voting yes. (copy attached)

HOUSE BILL #654:
Representative Dussault moved the adoption of the proposed amendments. The motion carried with Representative Seifert voting "no".
REPRESENTATIVE DUSSAULT moved "do pass as amended". The motion carried with the vote unanimous. (copy attached)

HOUSE BILL #685:
REPRESENTATIVE BAETH moved "do not pass".
REPRESENTATIVE TEAGUE made a substitute motion "do pass".
The motion failed with the vote 9 to 8.
REPRESENTATIVE BAETH moved a substitute motion to "table".
The motion carried with Representatives Teague and McLane voting "no".

HOUSE BILLS #91 and 92:
CHAIRMAN SCULLY took a straw vote to determine if the committee was still in favor of tabling the two bills.
The vote for HB 91 was to remain tabled with Representatives Keyser, and Day voting "no".
The vote for HB 92 to remain tabled was unanimous.

HOUSE BILL #719:
Representative Courtney moved to adopt the proposed amendments, pages 11 and 20. The motion carried with the vote unanimous.
REPRESENTATIVE LORY moved that HB 719 "do pass as amended".
The motion carried with the vote unanimous.

HOUSE BILL #720:
REPRESENTATIVE LORY moved "do pass". The motion carried with the vote unanimous.

HOUSE BILL #718:
REPRESENTATIVE DUSSAULT moved "do pass". The motion carried with the vote unanimous.

HOUSE BILL #734:
REPRESENTATIVE LORY moved "do not pass". The motion carried with the following representatives voting "no". Representatives Keyser, Teague and Conroy.

HOUSE BILL #751:
REPRESENTATIVE RAMIREZ moved to amend. The motion carried.
REPRESENTATIVE LORY moved "do not pass as amended".
The motion carried with the following representatives voting "no". Representatives Ramirez, Kennerly, Keyser, Teague and Scully.

HOUSE BILL #713:
REPRESENTATIVE RAMIREZ moved to amend. The motion carried.
REPRESENTATIVE RAMIREZ moved "do pass as amended".
The motion carried with Representative Day voting "no". (copy attached)

HOUSE BILL #273:
REPRESENTATIVE RAMIREZ moved "do pass".
REPRESENTATIVE KEYSER moved to amend. The motion carried with Representative Lory voting "no".
REPRESENTATIVE KEYSER moved "do pass as amended".
The motion carried with the vote unanimous. (copy attached)

HOUSE BILL 343:
REPRESENTATIVE KEYSER moved "do pass".
After some discussion it was decided the bill needed some work and was put into sub-committee.

HOUSE BILL #451
REPRESENTATIVE RAMIREZ moved to amend. The motion carried.
REPRESENTATIVE COURTNEY moved an additional amendment on line 8, page 4. The motion carried.
REPRESENTATIVE RAMIREZ moved "do pass as amended".
The motion carried with Representatives Dussault and Courtney voting "no".

HOUSE BILL #200:
REPRESENTATIVE ROTH moved to table pending action on the mandatory pre-trial bill. The motion carried.

HOUSE BILL #279:
REPRESENTATIVE RAMIREZ MOVED "do not pass".
The motion carried with the vote unanimous.

HOUSE BILL #201:
REPRESENTATIVE COURTNEY moved "do not pass as amended".
REPRESENTATIVE LORY made a substitute motion "do pass as amended."
The motion failed 10 to 7 with a roll call vote. Reverse to "do not pass". Voting "no" were Representatives Ramirez, Holmes, McLane, Lory, Keyser, Conroy, Teague, Seifert, and Scully.

Insert: ", appointed official"

5. Amend page 5.
Following: line 16
Insert: "Section 5. Penalties. Any person who fails to file a statement required by this act is guilty of a misdemeanor. Any person who knowingly files a false, erroneous or incomplete statement commits the offense of false swearing or tampering with public records or information, as appropriate, and is punishable as provided in 94-7-203 or 94-7-209, as applicable."
Renumber: subsequent sections (55-20)

And be further amended:

6. Amend page 5, section 3, subsection (11) lines 13 and 14.
Strike: subsection (11) in its entirety (70-9)

And as amended, do not pass. (65-26)

That HB 570 do pass. (90-3)

That HB 582 do pass. (83-6)

That HB 646 be amended as follows:

1. Amend page 3, section 1, line 8.
Following: "section."
Insert: "Up to 1/2 of the funds appropriated for this section shall be distributed to the counties of the state which operate public transportation systems to reimburse 50% of county expenditures of local revenues for public transportation." (57-1)

Kvaalen replaced Moore in the Chair.

Moore resumed Chair.

And as amended, do pass. (66-26)

That HB 675 do pass. (83-1)

That HB 678 be passed for consideration until the 44th Legislative Day.

That HB 711 do pass. (46-43)

That HB 718 do pass. (83-0)

That HB 720 do pass. (83-0)

That HB 757 do pass. (81-2)

That HJR 25 be passed for the day.

That HJR 64 do pass. (82-0)

That HJR 66 do pass. (81-2)

That the committee rise and report. (Moore, Chairman)

South moved that HB 711 be segregated from the Committee of the Whole report and as amended be adopted. Motion carried.

REPORTS OF STANDING COMMITTEES

On motion by Lien, and in accordance with the 24-hour rule, the adverse committee report on HB 515 was adopted by the following vote:

Ayes: Aageson, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Colburn, Cooney, Cox, Curtiss, Dassinger, Davis, Day, Dussault,

Absent or not voting: Aageson, Burnett, Lien, Lynch.
Total 4

House Bill No. 718 was passed by the following vote:

Ayes: R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Brand, Colburn, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Davis, Day, Dussault, Ellerd, Ellis, Ellison, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gerke, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hand, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Jensen, Johnston, Kanduch, Kennerly, Kenny, Keyser, Kimble, Kropp, Kvaalen, Lory, Lund, McLane, Manuel, Marks, Meloy, Metcalf, Meyer, Moore, Mular, Nathe, O'Connell, O'Keefe, Palmer, Pistoria, Porter, Quilici, Ramirez, Robbins, Ryan, Scully, Seifert, Severson, Shelden, Sivertsen, South, Staigmiller, Stobie, Teague, Tower, Tropila, Turner, Uhde, Underdal, Vincent, Vinger, Waldron, Williams, Wood, Wyrick, Mr. Speaker.
Total 92

Noes: Roth, Smith.
Total 2

Excused: Kessler, Menahan.
Total 2

Absent or not voting: Aageson, Burnett, Lien, Lynch.
Total 4

House Bill No. 720 was passed by the following vote:

Ayes: R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Brand, Colburn, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Day, Dussault, Ellerd, Ellis, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gerke, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hand, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Jensen, Johnston, Kanduch, Kennerly, Kenny, Keyser, Kimble, Kropp, Kvaalen, Lory, Lund, McLane, Manuel, Marks, Meloy, Metcalf, Meyer, Moore, Mular, Nathe, O'Connell, O'Keefe, Palmer, Pistoria, Porter, Quilici, Ramirez, Robbins, Ryan, Seifert, Severson, Shelden, Sivertsen, South, Staigmiller, Stobie, Teague, Tower, Tropila, Turner, Uhde, Underdal, Vincent, Vinger, Waldron, Williams, Wood, Wyrick, Mr. Speaker.
Total 89

Noes: Roth, Smith.
Total 2

Excused: Kessler, Menahan.
Total 2

Absent or not voting: Aageson, Burnett, Davis, Ellison, Lien, Lynch, Scully.
Total 7

House Bill No. 757 was passed by the following vote:

Ayes: R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Brand, Colburn, Conroy, Cooney, Courtney, Cox, Dassinger, Davis, Day, Dussault, Ellerd, Ellis, Ellison, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gerke, Gilligan, Gould, E. Gunderson, Halvorson, Hand, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Jensen, Johnston, Kanduch, Kenny, Keyser,

FORTY-FIFTH LEGISLATIVE SESSION

1977

COMMITTEE ON JUDICIARY

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
H.B. 589	2-17-77	3-21-77	3-24-77					3-24-77	
H.B. 590	2-17-77	3-2-77	4-1-77						4-1-77
H.B. 607	2-17-77	3-16-77	3-16-77					3-16-77	
H.B. 633	2-23-77	3-22-77	3-24-77						3-24-77
H.B. 647	3-5-77	3-28-77	3-31-77					3-31-77	
H.B. 654	2-25-77	3-25-77	4-6-77				4-6-77		
H.B. 668	3-2-77	3-14-77	3-24-77						3-24-77
H.B. 688	3-3-77	3-23-77	4-1-77						4-1-77
H.B. 713	3-7-77	3-26, 4-4, 4-5-77	4-5-77						4-5-77
H.B. 718	2-23-77	3-22-77	3-22-77					3-22-77	
H.B. 721	2-16-77	3-18-77	3-19-77				3-19-77		
H.B. 758	3-2-77	3-21-77	3-21-77				3-21-77		
H.B. 761	3-5-77	3-26-77	3-29-77						3-29-77
H.B. 761	3-29-77	3-31-77	Tabled 3-31-77						
H.B. 763	3-2-77	3-15-77	3-15-77					3-15-77	
H.B. 738	3-3-77	3-23-77	4-6-77					4-6-77	

(Duplicate Sheet for Senate, House Bills, and Resolutions)

LC 1440/01

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(2) "Rule" means any agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:

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THIRD READING

public.

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(3) Procedures for assisting public participation shall include a method of affording interested persons reasonable opportunity to submit data, views or arguments, orally or in written form, prior to making a final decision that is of significant interest to the public.

(4) The provisions of this act do not apply to:

(a) an agency decision that must be made to deal with an emergency situation affecting the public health, welfare or safety;

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(c) a decision involving no more than a ministerial act.

(5) ~~Each~~ The governor shall insure that each agency ~~shall adopt guidelines~~ adopts coordinated rules for its programs, which guidelines shall provide policies and procedures to facilitate public participation in those programs, consistent with subsection (1) of this section. These guidelines shall be adopted as rules and published in a manner which may be provided to a member of the public upon request."

-End-

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 22, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman at 9:35 a.m. on the above date in Room 415 of the State Capitol Building.

ROLL CALL:

All committee members present except Senators Warden and Roberts who were excused to attend other meetings.

WITNESSES PRESENT TO TESTIFY:

Elizabeth Clark - Youth Court, Bozeman
Rep. Meloy - District 29, Helena
Glen Drake - League of Cities and Towns
Rep. Vincent - District 78, Bozeman
Mike McGrath - Department of Justice
Dick Disney - administrator of Community Affairs Division
Harold Pitts - Helena
Greg Morgan - Montana Bar Assn.
Jim Beck - attorney, Department of Highways
Rob Smith - attorney, Public Service Commission
Rep. South - District 51, Miles City
Dan Mizner - executive director, League of Cities & Towns

CONSIDERATION OF HOUSE BILL 654:

Elizabeth Clark from the Youth Court in Bozeman, brought a group of the girls to the legislature today so that they could see how things are done and so she could testify on this bill. However, the bill was not scheduled for hearing this day, but the Chairman did allow her to testify at this time. She told the committee that the youth they deal with are the type that need to have a personal experience so that they can understand. They cannot just be told that something is wrong. They have to find out for themselves. She said further that the 45-day evaluation in an institution is of real value to their Youth Court and that they can use it as a punishment threat. They do not want to have shorter evaluation periods. She said the youths will take that evaluation involuntarily when it is ordered by the youth court and that it is not in the best interests of the youths if the courts dealing with them are impotent.

CONSIDERATION OF HOUSE BILL 718:

Rep. Meloy of District 29 in Helena, sponsor of the bill, said that this is a general revision of the Citizen Participation Law of 1975. This bill provides that people have input into decisions before they are made. He said that page 3 clarifies the language of the old law and that page 2 has a substantive change. Some agencies are exempt from the Montana Administrative Procedures Act. The declaratory rulings are generally an interpretation of the law.

They are usually subject to review under the Administrative Procedures Act. There is not really a definition of state agency. Whatever is adopted on page 2 should be also adopted on page 4.

Glen Drake, representing the League of Cities and Towns, said that he was not really an opponent as such but that they oppose the amendment that Rep. Meloy has proposed.

There were no other proponents or opponents present. After questions by committee members, the Chairman asked if the committee was ready to act on the bill.

Sen. Towe moved to strike "agency" and insert "board, bureau, commission, department, authority, agency, or office of the state" on page 2, line 11, and on page 4, line 7. The motion carried unanimously. He then moved that HB 718 as amended BE CONCURRED IN. The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 457:

Rep. Vincent of District 78 at Bozeman said that a representative from the office of the Attorney General, Mike McGrath, would carry the bill for him as he had introduced it at their request.

Mike McGrath, a staff attorney in the Attorney General's office, said that this bill amends the unfair and deceptive trade practices act. It gives the Attorney General the same authority that the county attorneys have, as sometimes the Attorney General's office has to assist them in the area with which this bill deals. He said that they are not interested in taking over the Department of Public Regulations, but they are interested in working with them. There has been some lack of understanding during the meetings.

Dick Disney, administrator of the Community Affairs Division, said that they are talking about a duplication of effort here. By putting another function into the office of the Attorney General, it is going to create confusion among the county attorneys.

Harold Pitts, testifying as a private system, said that he has a great deal of interest in the Department of Business Regulations as he was administrator of that department for the last four years until he resigned. He said that they worked very hard to develop the program and that one of the first statements the new Attorney General made when he took office was that he was going to have this under his department. They were going to educate the public in consumer protection work and about deceptive advertising practices. It is not necessary for two departments to handle this program.

Rep. Vincent said at this time that he did not want to get involved in the Attorney General part of this. His only interest is in doing the best for the people of Montana, and that he can see that the county attorneys and the Attorney General's office is the way to go in some fraud cases. Montana needs to have an active effort for consumer protection.

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 2-22-77

NAME	PRESENT	ABSENT	EXCUSED
TURNAGE, Jean, Chairman	✓		
ROBERTS, Joe, Vice-Chairman	✓		
MURRAY, William	✓		
OLSON, Stuart	✓		
LENSINK, Everett	✓		
REGAN, Pat	✓		
TOWE, Tom	✓		
WARDEN, Margaret			✓

3/22/77

HB 457, 633, 654, 718, 238 VISITOR'S Judiciary REGISTER

Note Bill No

NAME	REPRESENTING	Check One: Support	Oppos
[illegible]	[illegible] Bar Assn		[illegible]
Harold Dahl	Mont. Dept.		[illegible]
Lois Dorn	Consumer Regulation		457
Bob Smith	PSC		
Steve Milavetz	Mont. League C.W.A.	238	
Mike McGrath	Dept. of Justice	Yes	
Greg Morgan	State Bar of Mont	633	
Bob Raich	Dept of Fish & Game	718 Amend	

(Please leave prepared statement with Secretary)

March 22, 1977

STANDING COMMITTEE REPORT
Senate Committee on Judiciary

That House Bill No. 718 be amended as follows:

1. Amend page 2, section 1, line 11.
Following: "any"
Strike: "agency"
Insert: "board, bureau, commission, department, authority, agency, or officer of the state"

2. Amend page 4, section 2, line 7.
Following: "each"
Strike: "agency"
Insert: "board, bureau, commission, department, authority, agency, or officer of the state"

SB 16, SB 42, SB 64, SB 70, SB 78, SB 113, SB 140

Signed by the Speaker of the House and President of the Senate, at the hour of 4:22 p.m., 3/22/77, and delivered to the Governor for his approval:

SB 23, SB 84, SB 116, SB 141, SB 157, SB 161, SB 183

I have examined Senate Bill No. 38 introduced by me and find the same to be correct. (Murphy)

I have examined Senate Bill No. 117 introduced by me and find the same to be correct. (Lowe)

I have examined Senate Bill No. 199 introduced by me and find the same to be correct. (Murray)

Correctly enrolled - SB 38, SB 117, SB 199. Report adopted.

The Senate will please take note that the President will sign the following bills at the hour of adjournment, March 22, 1977:

SB 38, SB 117, SB 199, HB 57, HB 288, HB 328, HB 331, HB 362, HB 42, HB 97, HB 99, HB 256, HB 323, HB 376, HB 395, HB 396, HB 417, HB 418, HB 436, HB 586, HJR 14, HJR 67, HJR 18, HJR 22, HJR 58, HJR 80, HJR 82

W. GORDON McOMBER
President

JUDICIARY (Turnage, Chairman):
HB 718, third reading bill, be amended as follows:

1. Amend page 2, section 1, line 11.
Following: "any"
Strike: "agency"
Insert: "board, bureau, commission, department, authority, agency, or officer of the state"

2. Amend page 4, section 2, line 7.
Following: "each"
Strike: "agency"
Insert: "board, bureau, commission, department, authority, agency, or officer of the state"

And, as so amended, be concurred in. Report adopted.

PUBLIC HEALTH, WELFARE, AND SAFETY (Stephens, Chairman):
HB 318, third reading bill, be amended as follows:

1. Amend page 4, section 4, line 10.
Following: "qualifications."
Insert: "The application shall be designated by a number instead of the applicant's name, so that the identity will not be discovered or disclosed until after the examination papers are graded."

And, as so amended, be concurred in. Report adopted.

HB 523 third reading bill, be concurred in. Report adopted.

TAXATION (Mathers, Chairman):
HB 415, third reading bill, be amended as follows:

1. Amend page 1, section 1, lines 19 through 24.
Following: "use of"

That House Bill No. 553 be concurred in. Opposed by Aber, Bergren, Blaylock, Fasbender, Flynn, Graham, Healy, Jergeson, Lee, Manley, Manning, Mehrens, Murphy, Norman, Peterson, Regan, Roberts, E. Smith, Thiessen, Towe, Watt.

That House Bill No. 595 follow Senate Bill No. 211. Unanimously passed.

That House Bill No. 617 be concurred in. Unanimously concurred in.

That the Committee rise and report, and beg leave to sit again. (Lowe, Chairman)

Upon motion of Senator Lowe, duly carried, the foregoing Report of the Committee of the Whole was adopted.

Senate recessed at 4:01 p.m.

Senate resumed at 4:15 p.m.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Lowe in the Chair. Committee arose.

Senate resumed. President McOmber in the Chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That House Bill No. 718 be concurred in. Unanimously concurred in.

That House Joint Resolution No. 45 be concurred in. Unanimously concurred in.

That Senate Bill No. 211 be amended as follows:

1. Amend title, line 7.
Following: "84-4122,"
Insert: "84-4151,"

2. Amend page 3, section 2, lines 3 and 4.
Following: "not"
Strike: "less"
Insert: "more"
Following: "acre"
Strike: "and such higher value as may be established by comparable market data and firm conclusive evidence as to exact amounts of each mineral located under each acre assessed, not to exceed $1,000 per acre"

3. Amend page 3, section 2, line 7.
Following: line 7
Insert: "(3) In the event any county assessor determines the cost to the county or state of a title search or determination of mineral ownership would be so great that the tax return would not justify such cost, the affected mineral interests need not be assessed as set forth herein unless or until such information is provided."

4. Amend page 4, section 3, line 3.
Following: "herein."
Insert: "Once the surface owner has obtained all of the mineral interests in this manner, he is entitled to the presumption of no value set forth in Section 2 (2) herein."

House Bill No. 617 was concurred in by the following vote:

Ayes: Aber, Bergren, Blaylock, Boylan, Devine, Dover, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Hager, Hazelbaker, Healy, Himsl, Jergeson, Lee, Lensink, Lowe, McCallum, Manning, Mathers, Mehrens, Murphy, Murray, Nelson, Norman, Olson, Peterson, Rasmussen, Regan, Roberts, Roskie, E. Smith, R. Smith, Stephens, Story, Thiessen, Thomas, Towe, Turnage, Warden, Watt, Mr. President.
Total 45

Noes: None.
Total 0

Excused: Brown, Graham, Kolstad, Lockrem, Manley.
Total 5

Absent or not voting: None.
Total 0

House Bill No. 718 was concurred in by the following vote:

Ayes: Aber, Bergren, Blaylock, Boylan, Devine, Dover, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Hager, Hazelbaker, Healy, Himsl, Jergeson, Lee, Lensink, Lowe, McCallum, Manning, Mathers, Mehrens, Murphy, Murray, Nelson, Norman, Olson, Peterson, Rasmussen, Regan, Roberts, Roskie, E. Smith, R. Smith, Stephens, Story, Thiessen, Thomas, Towe, Turnage, Warden, Watt, Mr. President.
Total 45

Noes: None.
Total 0

Excused: Brown, Graham, Kolstad, Lockrem, Manley.
Total 5

Absent or not voting: None.
Total 0

House Joint Resolution No. 45 was concurred in by the following vote:

Ayes: Aber, Blaylock, Boylan, Devine, Dunkle, Etchart, Fasbender, Goodover, Hager, Hazelbaker, Healy, Himsl, Jergeson, Lee, Lensink, Lowe, McCallum, Manning, Mathers, Mehrens, Murphy, Nelson, Norman, Peterson, Rasmussen, Regan, Roberts, E. Smith, R. Smith, Stephens, Thomas, Towe, Turnage, Warden, Watt, Mr. President.
Total 36

Noes: Bergren, Dover, Flynn, Galt, Murray, Roskie, Story, Thiessen.
Total 8

Excused: Brown, Graham, Kolstad, Lockrem, Manley.
Total 5

Absent or not voting: Olson.
Total 1

House Amendments on Senate Bill No. 223 were concurred in by the following vote:

Ayes: Aber, Bergren, Blaylock, Boylan, Devine, Dover, Dunkle, Etchart, Fasbender, Flynn, Galt, Goodover, Hager, Hazelbaker, Healy, Jergeson, Lee, Lensink, Lowe, McCallum, Manning, Mathers, Mehrens, Murphy, Murray, Nelson, Norman, Olson, Peterson, Rasmussen, Regan, Roberts, Roskie, E. Smith, R. Smith, Stephens, Story, Thiessen, Thomas, Towe, Turnage, Warden, Watt, Mr. President.

Strike: "and to provide for objection to such annexation by all free-holders"

2. Amend page 3, section 1, line 15.
Following: "(resident)"
Insert: "resident"

3. Amend page 4, section 1, line 2.
Following: "(resident)"
Insert: "resident"

(Material in parentheses denotes cancelled type.)

MESSAGES FROM THE OTHER HOUSE

Bills and Resolution concurred in by the Senate and returned to the House: 3/26/77

House Bill No. 28, introduced by Bengtson, Roth

House Bill No. 523, introduced by Kennerly, et al

House Bill No. 553, introduced by Driscoll, Meloy

House Joint Resolution No. 45, introduced by Driscoll, et al

Bills on Committee Report in the Senate, not concurred in, report adopted, and returned to the House: 3/26/77

House Bill No. 448, introduced by Barrett, Stobie, Day, et al

House Bill No. 604, introduced by Shelden, Ellis, Kessler

Bill concurred in as amended by the Senate and returned to the House for concurrence in Senate Amendments: 3/26/77

House Bill No. 318, introduced by Metcalf

House Bill No. 415, introduced by Lynch

House Bill No. 617, introduced by Fabrega, Moore

House Bill No. 718, introduced by Meloy

Bill in Committee of the Whole in the Senate, recommended that further action be indefinitely postponed, report adopted, and returned to the House: 3/26/77

House Bill No. 541, introduced by Meyer, et al

Senate, on motion duly carried, requests the return of House Bill 340 for further consideration. 3/26/77

Senate, on motion duly carried, requests the return of House Bill 587 for further consideration. 3/26/77

The following Joint Conference Committee Report was adopted on roll call vote: 3/26/77

Joint Conference Committee on Senate Amendments to House Bill No. 41.

4-11-77

That SA to HB 494 and Senate Amendments to HB 508 be passed for the day.

That SA to HB 498 be not concurred in. (82-0)

Waldron excused at this time.

That SA to HB 512 be concurred in. (81-0)

That SA to HB 513 be concurred in. (77-4)

That SA to HB 560 be concurred in. (67-11)

That SA to HB 565 be concurred in. (84-0)

That SA to HB 567 be passed for the day.

That SA to HB 577 be not concurred in. (83-0)

That SA to HB 585 be concurred in. (77-2)

That SA to HB 587 be concurred in. (72-6)

That SA to HB 588 be not concurred in. (64-22)

That SA to HB 589 be concurred in. (84-0)

That SA to HB 595 be not concurred in. (81-1)

That SA to HB 599 be concurred in. (58-27)

That SA to HB 617 be concurred in. (83-1)

That SA to HB 634 be concurred in. (83-0)

That SA to HB 638 be concurred in. (77-6)

That SA to HB 644 be concurred in. (72-10)

That SA to HB 647 be concurred in. (81-0)

That SA to HB 650 be concurred in. (78-1)

That SA to HB 659 be concurred in. (78-3)

That SA to HB 718 be concurred in. (80-0)

That SA to HB 719 be concurred in. (80-0)

That SA to HB 721 be not concurred in. (82-0)

That SA to HB 724 be concurred in. (82-0)

That SA to HB 735 be not concurred in. (79-3)

That SA to HB 738 be not concurred in. (83-0)

That SA to HB 745 be passed for the day.

That SA to HB 758 be passed for the day.

That SA to HB 760 be concurred in. (81-0)

That SA to HB 777 be passed for the day.

That SA to HB 787 be concurred in. (85-0)

That SA to HB 791 be concurred in. (80-4)

That SA to HB 795 be concurred in. (76-6)

Total 0

Excused: Brand, Davis, Gerke, Lund, Waldron.
Total 5

Absent or not voting: Colburn, Dussault, Jensen.
Total 3

Senate Amendments to House Bill No. 650 were concurred in by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Burnett, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Day, Ellerd, Ellis, Ellison, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hand, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Johnston, Kanduch, Kennerly, Kenny, Kessler, Keyser, Kimble, Kropp, Kvaalen, Lien, Lory, Lynch, McLane, Manuel, Marks, Meloy, Menahan, Metcalf, Meyer, Moore, Mular, Nathe, O'Connell, O'Keefe, Palmer, Pistoria, Porter, Quilici, Ramirez, Robbins, Roth, Ryan, Scully, Seifert, Severson, Shelden, Sivertsen, Smith, South, Staigmiller, Stobie, Teague, Tower, Tropila, Turner, Uhde, Underdal, Vincent, Vinger, Williams, Wood, Wyrick, Mr. Speaker.
Total 92

Noes: None.
Total 0

Excused: Brand, Davis, Gerke, Lund, Waldron.
Total 5

Absent or not voting: Colburn, Dussault, Jensen.
Total 3

Senate Amendments to House Bill No. 659 were concurred in by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Burnett, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Day, Ellerd, Ellis, Ellison, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hand, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Johnston, Kanduch, Kennerly, Kenny, Kessler, Keyser, Kimble, Kropp, Kvaalen, Lien, Lory, Lynch, McLane, Manuel, Marks, Meloy, Menahan, Metcalf, Meyer, Moore, Mular, Nathe, O'Connell, O'Keefe, Palmer, Pistoria, Porter, Quilici, Ramirez, Robbins, Roth, Ryan, Scully, Seifert, Shelden, Sivertsen, Smith, South, Staigmiller, Teague, Tropila, Turner, Uhde, Underdal, Vincent, Vinger, Williams, Wood, Wyrick, Mr. Speaker.
Total 89

Noes: Stobie, Tower.
Total 2

Excused: Brand, Davis, Gerke, Lund, Waldron.
Total 5

Absent or not voting: Colburn, Dussault, Jensen, Severson.
Total 4

Senate Amendments to House Bill No. 718 were concurred in by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Burnett, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Day, Ellerd, Ellis, Ellison, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hand, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Johnston, Kanduch, Kennerly, Kenny, Kessler, Keyser, Kimble, Kropp, Kvaalen, Lien, Lory, Lynch, McLane, Manuel, Marks, Meloy, Menahan, Metcalf, Meyer, Moore, Mular, Nathe, O'Connell, O'Keefe, Palmer, Pistoria, Porter, Quilici, Ramirez, Robbins, Roth, Ryan, Scully, Seifert, Severson, Shelden, Sivertsen, Smith, South, Staigmiller, Stobie, Teague, Tower, Tropila, Turner, Uhde, Underdal, Vincent, Vinger, Williams, Wood, Wyrick, Mr. Speaker.
Total 92

Noes: None.
Total 0

Excused: Brand, Davis, Gerke, Lund, Waldron.
Total 5

Absent or not voting: Colburn, Dussault, Jensen.
Total 3

Senate Amendments to House Bill No. 719 were concurred in by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Burnett, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Day, Ellerd, Ellis, Ellison, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hand, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Johnston, Kanduch, Kennerly, Kenny, Kessler, Keyser, Kimble, Kropp, Kvaalen, Lien, Lory, Lynch, McLane, Manuel, Marks, Meloy, Menahan, Metcalf, Meyer, Moore, Mular, Nathe, O'Connell, O'Keefe, Palmer, Pistoria, Porter, Quilici, Ramirez, Robbins, Roth, Ryan, Scully, Seifert, Severson, Shelden, Sivertsen, Smith, South, Staigmiller, Stobie, Teague, Tower, Tropila, Turner, Uhde, Underdal, Vincent, Vinger, Williams, Wood, Wyrick, Mr. Speaker.
Total 92

Noes: None.
Total 0

Excused: Brand, Davis, Gerke, Lund, Waldron.
Total 5

Absent or not voting: Colburn, Dussault, Jensen.
Total 3

Senate Amendments to House Bill No. 724 were concurred in by the following vote:

Ayes: Aageson, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bertelsen, Bradley, Conroy, Cooney, Courtney, Cox, Curtiss, Dassinger, Day, Ellerd, Ellis, Ellison, Ernst, Estenson, Eudaily, Fabrega, Fagg, Feda, Frates, Gilligan, Gould, E. Gunderson, J. Gunderson, Halvorson, Hand, Hansen, Harper, Harrington, Hirsch, Holmes, Huennekens, Hurwitz, Johnston, Kanduch, Kennerly, Kenny, Kessler, Keyser, Kimble, Kropp, Kvaalen, Lien, Lory, Lynch, McLane, Manuel, Marks, Meloy, Menahan, Metcalf, Meyer, Moore, Mular, Nathe, O'Connell, O'Keefe, Palmer, Pistoria, Porter, Quilici, Ramirez, Robbins, Roth, Ryan, Scully, Seifert, Severson, Shelden, Sivertsen, South, Staigmiller, Stobie, Teague, Tower, Tropila, Turner, Uhde, Underdal, Vincent, Vinger, Williams, Wood, Wyrick, Mr. Speaker.

HOUSE BILL NO. 718

INTRODUCED BY MELOY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING DEFINITIONS AND DUTIES UNDER THE CITIZEN PARTICIPATION LAW; AMENDING SECTIONS 82-4227 AND 82-4228, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-4227, R.C.M. 1947, is amended to read as follows:

"82-4227. Definitions. As used in this act:

(1) "Agency" means any board, bureau, commission, department, authority, or officer of the state or local government authorized by law to make rules except:

(a) the legislature and any branch, committee, or officer thereof;

(b) the judicial branches and any committee or officer thereof;

(c) the governor, except that an agency is not exempt because the governor has been designated as a member thereof; or

(d) the state military establishment and agencies concerned with civil defense and recovery from hostile attack.

(2) "Rule" means any agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:

(a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public;

(b) declaratory rulings as to the applicability of any statutory provision or of any rule; however, the declaratory rulings of any ~~agency~~ BOARD, BUREAU, COMMISSION, DEPARTMENT, AUTHORITY, AGENCY, OR OFFICER OF THE STATE which is not subject to the Montana Administrative Procedure Act shall be published and be subject to judicial review as provided under 82-4213(2) and 82-4218;

(c) intra-agency memoranda."

Section 2. Section 82-4228, R.C.M. 1947, is amended to read as follows:

"82-4228. Agency requirements. (1) Each agency shall develop procedures for permitting and encouraging the public to participate in agency decisions that are of significant interest to the public. The procedures shall assure adequate notice and assist public participation before a final decision is made on the adoption of a rule or policy, awarding a contract, granting or denying a permit, license

or change of rate that is of significant interest to the public.

(2) An agency shall be deemed to have complied with the notice provisions of this act if:

(a) an environmental impact statement is prepared and distributed as required by the Montana environmental policy act, title 69, chapter 65;

(b) a proceeding is held as required by the Montana administrative procedure act, title 82, chapter 42;

(c) a public hearing, after appropriate notice is given, is held pursuant to any other provision of state law or a local ordinance or resolution; or

(d) a newspaper of general circulation within the area to be affected by a decision of significant interest to the public has carried a news story or advertisement concerning the decision sufficiently prior to a final decision ~~on a~~ to permit public comment on the matter.

(3) Procedures for assisting public participation shall include a method of affording interested persons reasonable opportunity to submit data, views or arguments, orally or in written form, prior to making a final decision that is of significant interest to the public.

(4) The provisions of this act do not apply to:

(a) an agency decision that must be made to deal with an emergency situation affecting the public health, welfare

or safety;

(b) an agency decision that must be made to maintain or protect the interests of the agency, including but not limited to the filing of a lawsuit in a court of law or becoming a party to an administrative proceeding; or

(c) a decision involving no more than a ministerial act.

(5) ~~Each~~ The governor shall insure that each agency BOARD, BUREAU, COMMISSION, DEPARTMENT, AUTHORITY, AGENCY, OR OFFICER OF THE STATE ~~shall---adopt---guidelines~~ adopts coordinated rules for its programs, which guidelines shall provide policies and procedures to facilitate public participation in those programs, consistent with subsection (1) of this section. These guidelines shall be adopted as rules and published in a manner which may be provided to a member of the public upon request."

-End-